

REMARKS

Claim Status

Upon entry of this amendment, claims 1 and 4 have been amended and claim 5 has been canceled; claims 1-4 and 6-34 remain pending.

Drawings

FIG. 3 has been amended to conform to the description. It is now believed that FIG. 3 is in compliance with 37 C.F.R. 1.84(p)(5). Therefore, Applicants respectfully request that the objection with respect to FIG. 3 be withdrawn.

Specification

The specification has been amended as described above to correct any inconsistencies. It is now believed that the specification is in compliance with the statutory requirements. Therefore, Applicants respectfully request that the objection with respect to the specification be withdrawn.

35 USC 102 Rejection

Claims 1-3 and 5 are rejected under 35 USC 102(b) as being anticipated by Annapareddy et al. (U.S. Pat. No. 5,717,862). For at least the reason(s) set forth below, Applicants respectfully traverse the foregoing rejection.

Claim 1 has been amended to include feature(s) recited in claim 5. Claim 5 is now redundant and, therefore, has been canceled. With respect to claim 5, it was alleged that Annapareddy discloses a node that maintains information on the status of each message. Maintaining information on the status of each message is not the same as and does not necessarily imply or suggest tracking the amount of data sent to a message destination. Therefore, the feature(s) as recited in claim 5 are patentable over the cited art. Since the feature(s) from claim 5 have been incorporated into claim 1, claim 1 is now patentable over the cited art.

Claims 2-3 depend either directly or indirectly from claim 1 and thus at least derive their patentability therefrom. Without conceding the patentability issues raised independently with respect to claims 2-3 and in the interest of expediting allowance of this application, Applicants respectfully submit that claims 2-3 are also patentable over the cited art.

35 USC 103 Rejection

Claims 4, 7, 10-19 and 24-28 are rejected under 35 USC 103(a) as being unpatentable over Annapareddy in view of Jolly et al. (GB 1427319).

Claim 4 is rejected on the basis that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Annapareddy in view of Jolly so as to store messages at each node. For at least the reason(s) set forth below, Applicants respectfully traverse the foregoing rejection.

Claim 4 depends from claim 1 and thus at least derives its patentability therefrom. Notwithstanding the foregoing, claim 4, on its own, is also patentable over the cited art. It is alleged that Jolly discloses that the node stores received messages. A more detailed review of the cited excerpt shows that the intermediate node in Jolly only temporarily stores the message and hence does not store the message for archival purposes. As the cited excerpt shows, the message may be briefly stored in one or more intermediate nodes. "The nodes have only a finite capacity to store messages and the links have a finite carrying capacity. Consequently, if a link is fully loaded a message may have to be stored at an intermediate node while it waits for a space on such a link." The foregoing shows that if there is capacity on the link, the message will be forwarded promptly and will not be stored at the intermediate node at all. Furthermore, once the message is sent, there is no disclosure or suggestion that a copy of the message will be retained at the intermediate node for archival purposes. In fact, retaining an archival copy would be contrary to the teaching as shown in the cited excerpt; retaining an archival copy would consume more storage space on the intermediate node and hence decreases bandwidth and performance. Claim 4 has been amended to further clarify that the copy of the message is retained for archival purposes. Hence, Applicants respectfully submit that claim 4 is also patentable over the cited art.

Claim 7 is rejected on the basis that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Annapareddy in view of Jolly so as to store messages at each node. The same rationale and arguments set forth above in connection with claim 4 apply to claim 7 with equal force. Hence, Applicants respectfully submit that claim 7 is also patentable over the cited art.

Claims 10-18 depends either directly or indirectly from claim 7 and thus at least derive their patentability therefrom. Notwithstanding the foregoing, at least some of these claims, on their own, are also patentable over the cited art. For example, with respect to claim 10, it is alleged that Jolly

discloses that messages are sent from a source to a node which stores the message. A more detailed of the cited excerpt shows that the node then sends the message into the system at the appropriate time. Hence, the node as described in Jolly does not serve as an archive and store messages for archival purposes. Furthermore, having a node store a message is not the same as and does not necessarily imply or suggest associating an archive to a source. Therefore, Applicants respectfully submit that claim 10 on its own is also patentable over the cited art. Without conceding the patentability issues raised independently with respect to claims 10-18 and in the interest of expediting allowance of this application, Applicants respectfully submit that claims 10-18 are also patentable over the cited art.

Claim 19 is rejected on the basis that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Annapareddy in view of Jolly so as to store messages at each node. The same rationale and arguments set forth above in connection with claims 4, 7 and 10 apply to claim 19 with equal force. Hence, Applicants respectfully submit that claim 19 is also patentable over the cited art.

Claims 24-28 depends either directly or indirectly from claim 19 and thus at least derive their patentability therefrom. Without conceding the patentability issues raised independently with respect to these claims and in the interest of expediting allowance of this application, Applicants respectfully submit that claims 24-28 are also patentable over the cited art.

Claim 6 is rejected under 35 USC 103(a) as being unpatentable over Annapareddy in view of Sleeper (U.S. Pat. No. 6,401,074). Claim 6 depends from claim 1 and thus at least derives its patentability therefrom. Without conceding the patentability issue raised independently with respect to claim 6 and in the interest of expediting allowance of this application, Applicants respectfully submit that claim 6 is also patentable over the cited art.

Claim 8-9, 20-21 and 23 are rejected under 35 USC 103(a) as being unpatentable over Annapareddy in view of Jolly et al. and further in view of Hanzek (U.S. Pat. No. 6,645,726).

Claims 8-9 depend either directly or indirectly from claim 7 and thus at least derive their patentability therefrom. Without conceding the patentability issues raised independently with respect to claims 8-9 and in the interest of expediting allowance of this application, Applicants respectfully submit that claims 8-9 are also patentable over the cited art.

Claims 20-21 and 23 depend either directly or indirectly from claim 19 and thus at least derive their patentability therefrom. Without conceding the patentability issues raised independently with respect to claims 20-21 and 23 and in the interest of expediting allowance of this application, Applicants respectfully submit that claims 20-21 and 23 are also patentable over the cited art.

Claim 22 is rejected under 35 USC 103(a) as being unpatentable over Annapareddy in view of Jolly et al., further in view of Hanzek, and further in view of Sleeper.

Claim 22 depends indirectly from claim 19 and thus at least derives its patentability therefrom. Without conceding the patentability issue raised independently with respect to claim 22 and in the interest of expediting allowance of this application, Applicants respectfully submit that claim 22 is also patentable over the cited art.

Claims 29-31 are rejected under 35 USC 103(a) as being unpatentable over Annapareddy in view of Jolly et al., and further in view of De Vos et al. (U.S. Pat. No. 6,240,552).

Claims 29-31 depend either directly or indirectly from claim 19 and thus at least derive their patentability therefrom. Without conceding the patentability issues raised independently with respect to claims 29-31 and in the interest of expediting allowance of this application, Applicants respectfully submit that claims 29-31 are also patentable over the cited art.

Claim 32-34 are rejected under 35 USC 103(a) as being unpatentable over Annapareddy in view of Sleeper, further in view of Jolly et al. and further in view of De Vos et al.

With respect to claim 32, the same rationale and arguments set forth above in connection with claims 4, 7, 10 and 19 apply to claim 32 with equal force. Hence, Applicants respectfully submit that claim 32 is also patentable over the cited art.

Claims 33-34 depend either directly or indirectly from claim 32 and thus at least derive their patentability therefrom. Without conceding the patentability issues raised independently with respect to claims 33-34 and in the interest of expediting allowance of this application, Applicants respectfully submit that claims 33-34 are also patentable over the cited art.

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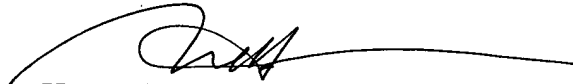
It is further noted that the individual attorney of record for this application, Horace Ng, has recently moved to another law firm, McDermott Will & Emery LLP. It is realized that a new Power of Attorney and 3.73(b) Statement have to be filed. However, an authorized officer of the assignee of this application, Slam Dunk Networks, Inc., is not presently available to execute the new Power of Attorney and 3.73(b) Statement. Therefore, it is respectfully requested that the Examiner accept submission of this amendment for consideration for the time being. As soon as the requisite documents are executed, they will be forwarded to the U.S. Patent Office promptly.

Conclusion

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at the telephone number provided below.

Respectfully submitted,

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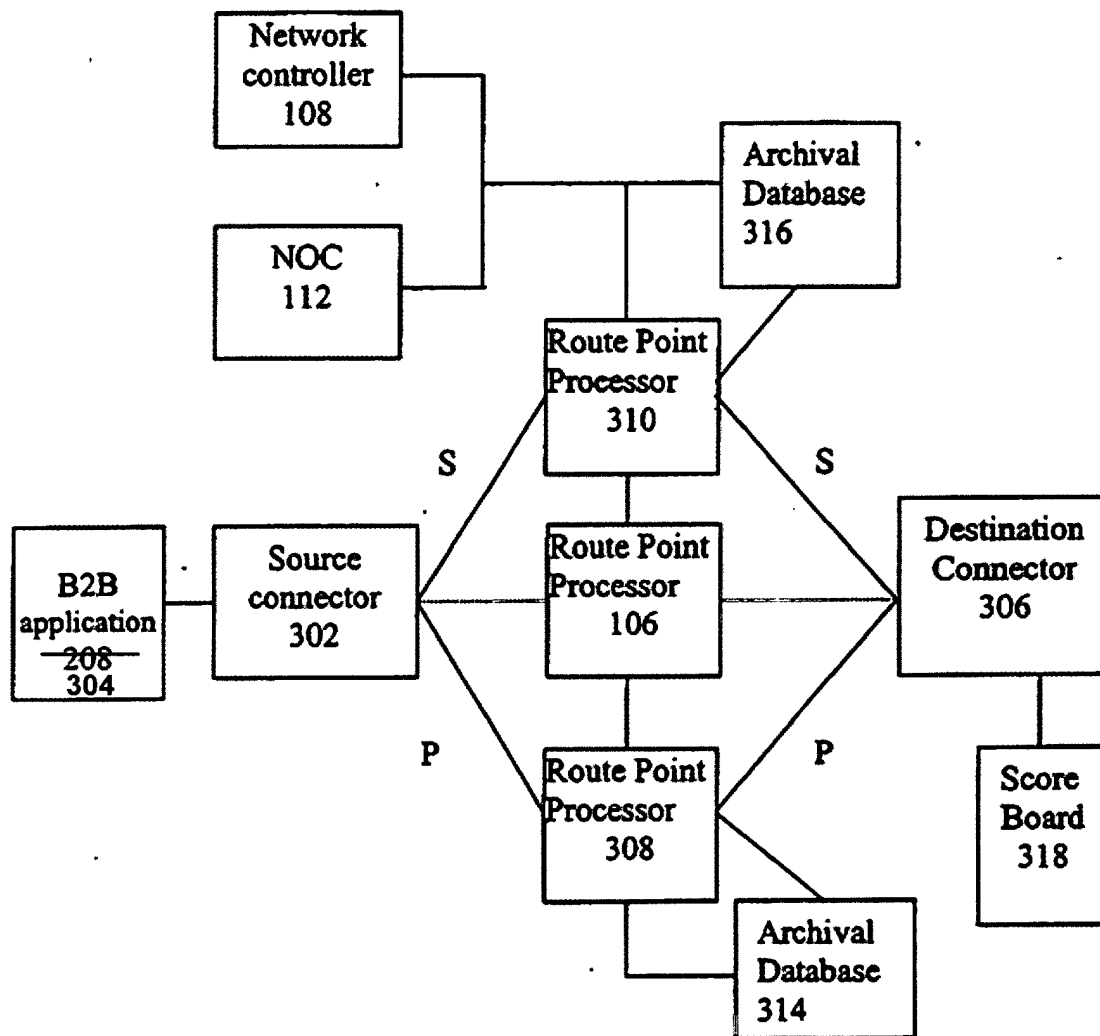


Fig. 3